



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 22 2003

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Facsimile and First Class Mail

Mr. O. Gene Dishner
Director
Commonwealth of Virginia Department of Mines,
Minerals and Energy
Ninth Street Office Building, 8th Floor
202 North Ninth Street
Richmond, Virginia 23219

Re: Enforcement Discretion for Virginia

Dear Mr. Dishner:

I am writing in response to your September 22, 2003 letter requesting that the United States Environmental Protection Agency (EPA) exercise its enforcement discretion regarding potential violations of the reformulated gasoline (RFG) requirements of the Clean Air Act (CAA) found at section 211(k)(5) of the CAA, 42 U.S.C. § 7545(k)(5), and the regulations promulgated thereunder at 40 C.F.R. Part 80. I understand that the Richmond and Tidewater areas of Virginia are experiencing a gasoline supply shortage resulting directly from Hurricane Isabel.

Based on the limited amount of time that EPA has had to collect information on this supply matter, and the urgency with which you request a response, EPA will exercise enforcement discretion to allow regulated parties to supply conventional gasoline in the RFG covered areas in the Richmond¹ and Tidewater² areas of Virginia (affected areas). See 40 C.F.R. § 80.70.

¹ The Richmond area includes the following counties: Charles City, Chesterfield, Hanover, and Henrico; and the following cities: Richmond, Hopewell and Colonial Heights.

² The Tidewater area includes the following counties: James City and York; and the following cities: Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach and Williamsburg.

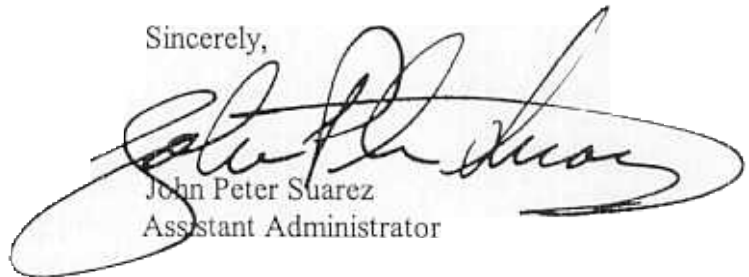
However, to the extent practicable, regulated parties must take all reasonable steps to provide compliant gasoline to these ozone non-attainment areas. If a regulated party elects to supply conventional gasoline to retail outlets or wholesale facilities in the affected areas under this waiver, the party must submit a written report to EPA by no later than October 31, 2003, which indicates the total volume of conventional gasoline supplied to these retailers and wholesale facilities on a per day basis. These reports must be sent to the following address:

Bruce Buckheit, Director
Air Enforcement Division
Mail Code 2242A
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

This exercise of enforcement discretion is effective immediately and will continue until midnight on Tuesday, September 30, 2003. However, retail outlets or wholesale purchaser-consumers that receive conventional gasoline under the terms of this waiver may continue selling or dispensing this gasoline after September 30, 2003, until their supplies are depleted. If, after further consultation with you, EPA determines that a shorter timeframe for the exercise of enforcement discretion is more appropriate, EPA will notify you of its determination in writing.

If you have questions, please call Mr. Bruce C. Buckheit, Director of the Air Enforcement Division, at (202) 564-2260.

Sincerely,



John Peter Suarez
Assistant Administrator

cc: American Petroleum Institute
202-682-8031 (FAX)

National Petroleum Refiners Association
202-457-0486 (FAX)

Petroleum Marketers Association of America
703-351-9160 (FAX)

Judith Katz, U.S. EPA, Region 3